

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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333 EAST 60TH STREET, INC., D/B/A : 08 Civ. 4147 (RJS) (GWG)
Scores East,

:

Plaintiff, : **ANSWER**

-against-

:

NEW YORK STATE LIQUOR AUTHORITY, :
DANIEL B. BOYLE, individually, :
LAWRENCE J. GEDDA, individually, :
NOREEN HEALEY, individually, and the :
CITY OF NEW YORK, :

:

Defendants. :

:

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Defendants New York State Liquor Authority, Daniel B. Boyle, Lawrence J. Gedda, and Noreen Healey (“State defendants”), by their attorney, ANDREW M. CUOMO, Attorney General of the State of New York, as and for their answer to the complaint herein, respectfully allege:

1. That the allegations contained in paragraph 1 of the complaint constitute a characterization of the case to which no response is required, but to the extent that an answer is made, deny knowledge or information sufficient to form a belief in respect thereto.
2. Deny the allegations set forth in paragraph 2 of the complaint, except admit that plaintiff purports to proceed as described therein.
3. Deny knowledge or information sufficient to form a belief with respect to the allegations contained in paragraphs 3, 6, 7, 8, 9, 10 and 16 of the complaint.

4. Deny the allegations set forth in paragraph 4 of the complaint, except admit that the New York State Liquor Authority is an agency of the State of New York, with powers and duties as prescribed by law, and that the individual defendants are commissioners of the New York State Liquor Authority.

5. Deny knowledge or information sufficient to form a belief with respect to the allegations contained in the first four sentences of paragraph 5 of the complaint, except admit that the City of New York is a political subdivision of the State of New York, and deny the allegations set forth in the fifth sentence of paragraph 5 of the complaint.

6. Deny the allegations set forth in paragraph 11 of the complaint, except admit that the New York State Liquor Authority commenced certain administrative proceedings in accordance with its powers and duties as prescribed by law.

7. Deny the allegations set forth in paragraph 12 of the complaint, except admit that the New York State Liquor Authority undertook certain disciplinary proceedings within its powers and duties as prescribed by law.

8. Deny the allegations contained in paragraphs 13, 15 and 17 of the complaint.

9. Deny the allegations set forth in paragraph 14 of the complaint, except admit that the New York State Liquor Authority took certain disciplinary action with respect to Scores West all in accordance with its powers and duties as prescribed by law.

10. In response to paragraph 17 of the complaint, repeat and reallege the responses set forth in the paragraphs hereinbefore as if fully set forth herein.

11. Deny that plaintiff is entitled to the relief sought in the WHEREFORE CLAUSE of the complaint.

AS AND FOR A FIRST DEFENSE

12. The complaint fails to state a claim upon which relief can be granted as against all State defendants.

AS AND FOR A SECOND DEFENSE

13. This Court lacks personal jurisdiction over defendants Daniel B. Boyle, Lawrence J. Gedda and Noreen Healey.

AS AND FOR A THIRD DEFENSE

14. The complaint fails to state a claim upon which relief can be granted as against defendants Daniel B. Boyle, Lawrence J. Gedda and Noreen Healey, who are sued solely in their individual capacities, because defendants Daniel B. Boyle, Lawrence J. Gedda and Noreen Healey are powerless in their individual capacities to effect the relief demanded in the complaint.

AS AND FOR A FOURTH DEFENSE

15. The New York State Liquor Authority is an agency of the State of New York.

16. By reason of the foregoing, this action is barred as against the New York State Liquor Authority by the Eleventh Amendment to the United States Constitution, and this Court lacks subject matter jurisdiction over the New York State Liquor Authority.

AS AND FOR A FIFTH DEFENSE

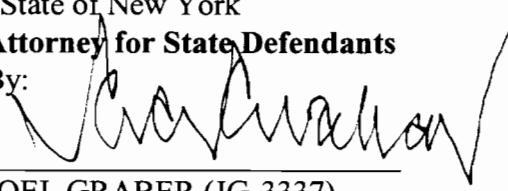
17. The actions and conduct of State defendants and all agents and employees of the State of New York under their direction or control in regard to the matters alleged in the complaint, at all relevant times have been fully in compliance with all applicable Federal and State constitutional provisions, statutes and regulations.

WHEREFORE, State defendants respectfully request that judgment be entered dismissing the complaint, awarding State defendants the costs of this action, including attorney's fees pursuant to 42 U.S.C. § 1988, and granting such other and further relief as this Court may deem just and proper.

Dated: New York, New York
June 13, 2008

ANDREW M. CUOMO
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State of New York
Attorney for State Defendants

By:



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TO:

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